

TESTIMONY OF WILLIAM M. KARGMAN
FIRST REALTY MANAGEMENT CORPORATION
BOSTON, MA
BEFORE THE HOUSE FINANCIAL SERVICES COMMITTEE
JULY 20, 2004

Mr. Chairman and members of the committee, first I would like to acknowledge that the Committee has recognized and taken an interest in a very important issue with respect to certain federally subsidized housing programs whose mortgages are due to be fully paid in the next few years and there exists no protection for a class of tenants that are currently residing in this housing as pointed out by the GAO Report.

I am here to tell you about tenants living in sections 221(d)(3) & section 236 housing who are currently paying below market rents, do not receive section 8 subsidy, and who will face increases in rent when mortgages are fully paid and HUD regulation terminates. This class of tenants under current law are not eligible for enhanced section 8 vouchers because under the current tenant protection legislation, enhanced section 8 vouchers are only available when mortgages are **pre-paid**. Members of this class of tenants are low and moderate income families whose incomes range from 51% to 95% of median income.

I would like to take a moment to describe to you the housing programs that will be substantially affected if some action is not taken. Both the section 221(d)(3) program and the section 236 were originally designed as low and moderate mixed income programs. The 221(d)(3) program did not originally have any deep subsidy such as section 8, where-as the section 236 program, which succeeded the 221(d)(3) program usually had a 20 or 25% low income deep subsidy component. In the mid 1970's, after an OPEC oil price increase which translated in substantial rent increases for tenants in these programs, HUD awarded project based section 8 contracts to many of the housing communities in these programs to protect the low income tenants from paying rents in excess of 30 percent of their income. The percentage of section 8 tenants usually ranged from 20 to 30 percent of the total resident population.

In 1987, because the Federal Government had virtually shut down new housing production programs, tenant organizations expressed concerns that owners of the section 221(d)(3) and sections 236 properties which were reaching their 20th mortgage year, were about to **pre-pay** their mortgages which would jeopardize the current tenants and cause massive displacements because there was no new alternative assisted housing being produced by the Federal Government. As a result of these assertions, legislation was passed by the Congress denying owner's rights to **pre-pay** their mortgages and offering incentives under a new Act called the Emergency Low Income Housing Preservation Act (ELIHPA). This law provided incentives to owners, such as refinancing mortgages, equity take out loans and additional section 8 for qualified tenants. At that time, Congress drew a distinction between For-Profit Owners and Non-Profit Owners with respect to the amount of section 8 that would be awarded to a housing community. For-Profit Owners received section 8 only for families whose incomes were at 50% of the Median Income or below. Non-Profit Owners received Section 8 for all families whose incomes were at 80% of Median Income or below. The non-section 8 tenants were to pay rents that ranged from approximately 28% of their income to 32% of their income depending on the individual Plan of Action that was filed by each owner and accepted by HUD. Finally, the ELIHPA program extended the HUD regulatory restrictions for the remaining term of the original mortgage.

In 1994, the Congress ended the ELIHPA program and replaced it with a new Law called the Low Income Housing Preservation and Rehabilitation Homeownership Act (LIHPRA). This law offered similar incentives as ELIHPA but required in return that Owners commit to be regulated for the remaining useful life of the property or 50 years.

I am before you to advocate the passage of the parts of the proposed legislation that would provide enhanced section 8 vouchers for tenants in ELIHPA housing and sections 221(d)(3) and 236 housing who would otherwise be faced with rent increases after HUD regulation terminates when the mortgage is fully amortized and paid.

I am a General Partner and Manager of ten 221(d)(3) and 236 properties which contain 2494 family apartments. Nine of these properties participate in ELIHPA. In my portfolio, mortgages begin to fully amortize as early as September 1, 2006 and as late as 2013. The majority of my properties will have their mortgages fully amortized between 2008 and 2010. All of these ELIHPA properties have mixed income populations where the very low income families (50% of median and below) receive section 8 and the balance have incomes ranging from 51% to 95% of median income. It is this latter class of tenants that are in jeopardy because, under current law, they are not eligible for enhanced section 8 vouchers.

Enhanced section 8 vouchers have been effective in preventing the displacement of long term tenants in HUD properties that were allowed to *pre-pay* their mortgages after Congress changed the law in 1996 to restore owner's prepayment rights. In my portfolio, I have a mortgage that was *pre-paid* in 1996 where approximately 177 tenants out of 227 received enhanced section 8 vouchers and 90 of these tenants still reside in the property today. Enhanced section 8 vouchers made it possible for the tenants to continue to live in a building that was substantially upgraded and rehabilitated to a market rate building without any funding from the Federal or State government. The building is located in a low vacancy area and without the enhanced vouchers, the tenants would have had great difficulty finding decent housing at affordable rents.

Mr. Chairman, 40 years ago I entered into a partnership with the Federal Government to produce low and moderate income housing and agreed to restrict my profits in return for mortgage subsidies for a term of 40 years. At the time contracts were made with the Federal Government, it was believed that the mortgages would be pre-payable after 20 years. As I mentioned earlier, in 1988 the Federal Government unilaterally changed this contract and denied owners the right to refinance or pre-pay their properties. The past 40 years has been an invaluable learning experience for me. I have learned how to help improve the lives of low income families by developing resident programs. I have learned how to manage mixed income housing complexes and make them function more as communities than as clusters of apartments. However, I have learned that a partnership with the government can radically change when Congress takes action that alters that partnership. I have also learned that consistency in the enforcement of regulations depends on the knowledge and experience of the regulators and that constant turnover

creates changes and inconsistencies which can dramatically affect the operations of my business and the opportunity to earn a reasonable profit.

HUD should have prepared for this time when the public private partnerships are coming to an end after 40 years. I have been alerting members of HUD about the issues contained in the proposed legislation for the past three years.

I strongly endorse most of the ideas in H.R. 4679 as a means of protecting the homes of residents who were invited into a program by the Federal Government and have made the housing communities their homes. I would like to be able to say to my tenants, as I did to those who reside in the building I pre-paid in 1996; that they can look forward to living in the community they call home as long as the Federal Government will help them pay the market comparable rent. I am a strong supporter of preventing the displacement of these residents by making them eligible for enhanced vouchers. Naturally, I am concerned about the current voucher funding shortfall and its impact on the ability of our residents to feel confident that they will continue to be assisted by the Government in the future and will not face the possibility of being displaced.

As an owner, the enhanced voucher provisions in H.R. 4679 are the most important, but I would like to point out that there are for-profit owners who would be interested in grants or other incentives outlined in the bill in exchange for extending the affordability restrictions formerly imposed by the mortgage regulatory agreement.

Thank you for your consideration of my views.